

Adopted	Rejected
---------	----------

COMMITTEE REPORT

YES:	12
NO:	0

MR. SPEAKER:

*Your Committee on Appointments and Claims, to which was referred House Bill 1349, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

1 Page 1, delete lines 1 through 17, begin a new paragraph and insert:
2 "SECTION 1. IC 34-6-2-89 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 89. (a) "Offender", for
4 purposes of IC 34-13-3-7, means a person who is committed to the
5 department of correction or was committed to the department of
6 correction.
7 (b) "Offender", for purposes of IC 34-58, means a person who
8 is committed to the department of correction or incarcerated in a
9 jail.
10 SECTION 2. IC 34-58 IS ADDED TO THE INDIANA CODE AS
11 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
12 2004]:
13 **ARTICLE 58. SCREENING OF OFFENDER LITIGATION**

1 **Chapter 1. Screening Procedure**

2 **Sec. 1. Upon receipt of a complaint or petition filed by an**
 3 **offender, the court shall docket the case and take no further**
 4 **action until the court has conducted the review required by section**
 5 **2 of this chapter.**

6 **Sec. 2. (a) A court shall review a complaint or petition filed by**
 7 **an offender and shall determine if the claim may proceed. A claim**
 8 **may not proceed if the court determines that the claim:**

- 9 **(1) is frivolous;**
 10 **(2) is not a claim upon which relief may be granted; or**
 11 **(3) seeks monetary relief from a defendant who is immune**
 12 **from liability for such relief.**

13 **(b) A claim is frivolous under subsection (a)(1) if the claim:**

- 14 **(1) is made primarily to harass a person; or**
 15 **(2) lacks an arguable basis either in:**
 16 **(A) law; or**
 17 **(B) fact.**

18 **(c) A court shall dismiss a complaint or petition if:**

- 19 **(1) the offender who filed the complaint or petition received**
 20 **leave to prosecute the action as an indigent person; and**
 21 **(2) the court determines that the offender misrepresented**
 22 **the offender's claim not to have sufficient funds to prosecute**
 23 **the action.**

24 **Sec. 3. If a court determines that a claim may not proceed**
 25 **under section 2 of this chapter, the court shall enter an order:**

- 26 **(1) explaining why the claim may not proceed; and**
 27 **(2) stating whether there are any remaining claims in the**
 28 **complaint or petition that may proceed.**

29 **Sec. 4. The clerk of the court shall send an order entered under**
 30 **section 3 of this chapter to:**

- 31 **(1) the offender;**
 32 **(2) each defendant or respondent in the action;**
 33 **(3) the department of correction, if the offender is**
 34 **incarcerated by the department of correction;**
 35 **(4) the sheriff of the county in which the inmate is**

1 incarcerated, if the inmate is incarcerated in a county or city
2 jail; and
3 (5) the attorney general.

4 **Chapter 2. Abusive Litigation**

5 **Sec. 1. If an offender has filed at least three (3) civil actions in**
6 **which a state court has dismissed the action or a claim under**
7 **IC 34-58-1-2, the offender may not file a new complaint or**
8 **petition unless a court determines that the offender is in**
9 **immediate danger of serious bodily injury (as defined in**
10 **IC 35-41-1-25).".**

11 Delete page 2.

12 Page 3, delete lines 1 through 12.

13 Page 4, after line 3, begin a new paragraph and insert:

14 "SECTION 3. [EFFECTIVE JULY 1, 2004] **IC 34-58, as added by**
15 **this act, applies to a cause of action filed after June 30, 2004."**

16 ReNUMBER all SECTIONS consecutively.

 (Reference is to HB 1349 as introduced.)

and when so amended that said bill do pass.

Representative Harris